C.F/100-

IN THE HON'BLE HIGH COURT OF JUDICATURE AT BILASPUR

WRIT PETITION NO. 125 OF 2001.

Smt. P. Anasuya Naidu
C/o Shri. P.K.R.Naidu
Quarter No. B 7 / 74
Lafarge India Limited,
Sonadih Cement Plant, Sonadih,
Village: Baloda Bazar,
Post : Raseda,
The. and Distt.: Raipur (Chhattisgarh). .....PETITIONER

VERSUS

1. Union of India,
Through : The Secretary,
Ministry of Human Resources Development
Govt. of India,
NEW DELHI.

2. The Secretary,
Central Board of Secondary Education,
2 /19, Sant Vihar, Ansari Road,
Darya Ganj, **NEW DELHI**.

P. R. No. 130/01
Presented by Shri S.M. Kushy
dated 24.4.01

The Regional Director,
D.A.V. Public School,
HUDCO Sector,
Behind 32 Bunglaws,
BHILAI.
Dist. Durg. (C.G.).

4. The Principal,
Tata D.A.V. Public School,
Sonadih,
Post : Raseda ,
Tehsil : Raipur (C.G.). ....RESPONDENTS.

Singh Gaharwar
Sr. Standing Counsel

PETITION UNDER ARTICLE 226 /227 OF THE CONSTITUTION OF INDIA.

(94) A. F. R.

HIGH COURT OF CHHATTISGARH ; BILASPUR

Writ Petition No. 1251 of 2001

In the matter of an application under Articles 226 and 227 of the Constitution of India.

Smt. P. Anasuya Naidu — Petitioner

Versus

Union of India & others — Respondents

For petitioner : Shri P. S. Koshy, Adv.

For respondents : Shri Pankaj Shrivastava on behalf of Shri A.S.Gaharwar, Sr.Standing Counsel (Central) (for respondents No.1 & 2).

Shri Sanjay K.Agrawal, (For respondents No.3 & 4)

Date of Order

04-09-2002

PRESENT:

HON'BLE SHRI JUSTICE P.C.NAIK

The petitioner had applied for and was selected as a pre-primary teacher for which the required qualification was B.A. / B.Sc. B.Ed. preferably in nursery training.

2. Admittedly, the petitioner had not obtained the Bachelor of Education degree but had obtained a certificate of Shiksha Visharad in the year 1989 from the Hindi Sahitya Sammelan, Allahabad, which was said to be recognized. She was selected

and was issued an appointment order and accordingly she joined sometime in July 2000. However, vide letter dated 03/08/2001, the petitioner was informed that as she had not submitted her professional qualification certificate of B.Ed. recognized by University Grants Commission [U.G.C.] or Montessori Diploma recognized by Govt. of India / State Government, her services will not be required w.e.f. 01-08-2001 and the period intervening was to be treated as one-month's notice. Accordingly, her services were dispensed with and her appointment was revoked. Aggrieved with the action of revocation of her appointment, the petitioner approached this Court for relief.

3. That the petitioner does not possess the B.Ed. qualification nor a diploma recognized by University Grants Commission or a Montessori Diploma recognized by the Government of India / State Government is not disputed. However, reliance is placed on a letter dt. 23-5-1988 of the Central Board of Secondary Education, in short the CBSE, that as per the handbook for Personal Officers, Govt. of India, Hindi Sahitya Sammelan Prayag, Allahabad is recognized and as such, a person possessing a B.Ed. degree from Hindi Sahitya Sammelan Prayag, Allahabad, is to be treated as a trained teacher. Annexure P-5 to the writ petition is a copy of the advertisement issued by Hindi Sahitya Sammelan Prayag, Allahabad, which in fact is an information regarding the examination conducted by it. With regard to the Shiksha Visarad, it is indicated that it is a one-year course and the eligibility for the course is Madhaymik or Graduate or equivalent

degree thereto. If further indicates that it is recognized by Government of Orissa as equivalent to BTC and a trained teacher for the CBSE. However, there is nothing on record to indicate that the examinations conducted by the Hindi Sahitya Sammelan, Allahabad are recognized by the State of Chhattisgarh.

In reply, attention of the Court is invited to the extracts of the minutes of the meeting of the Affiliation Committee of CBSE held on 15th September, 1995, where the question of considering equivalence of Siksha Visharad Degree as equivalent to B.Ed. Degree of other recognized Universities was taken up for consideration. The agenda and the resolution read thus:

> "Item No.4:
>
> To consider equivalence of Shiksha Visharad Degree issued by Hindi Sahitya Sammelan, Prayag, Allahabad, Uttar Pradesh as equivalent to B.Ed. Degree of other recognized Universities.
>
> Resolved that Shiksha Visharad degree is not being treated as equivalent to B.ED. of other recognized universities and the letter No.CBSE/AFF/3325/88/3006 dated 23.5.1988 be treated as cancelled."

4. The Court's attention was also invited to a letter dated 20th August, 2001 of the Association of Indian Universities, New Delhi, whereby on a query raised, the Principal of the Tata DAV Public School, Raipur was informed thus:

> "Hindi Sahitya Sammelan, Prayag, Allahabad is one of the Voluntary institutions SET UP FOR PROMOTION OF HINDI LANGUAGE; its examinations/certificates are not (NOT) equated with the secondary

> stage/degree examinations. As per Govt. of India (Ministry of Human Resource Development) Press Notification dated 5th May, 1988 the recognition of its exams is VALID/RESTRICTED TO THE SUBJECT OF HINDI ONLY".

Thus, the letter dated 23-05-1988 on which reliance is placed by the petitioner having been withdrawn, the very foundation of which her case rests, disappears. Thus, the contention that, having obtained the degree of Shiksha Visharad from the Hindi Sahitya Sammelan, Prayag, Allahabad, she should be treated to be a trained teacher, cannot be accepted.

5. It was then contended that as the petitioner had admittedly obtained the degree of Shiksha Visharad, the Court should issue a direction for treating it to be equivalent to B.Ed. Degree. Such a direction cannot obviously be issued in view of the fact that to treat or not to treat a particular degree or certificate of a body as equivalent to that of another, is a matter to be decided by the Academic Bodies and not by Courts of law as that question, the Court feels, is purely within the jurisdiction of the Academic Bodies. A more or less a similar question had recently come up before the Apex Court in the case of State of Rajasthan Vs. Lata Arun, 2002 A.I.R. S.C.W. 2966. In that case the provisional admission of the respondent to the General Nursing and Mid-wifery and Staff Nurse Course was cancelled on the ground that she did not possess the requisite qualification which was first year of three years decree course (TDC) or 10 + 2. The respondent had, however, obtained a Madhyama Certificate from

the Hindi Sahitya Sammelan, Prayag. The writ petition filed before the Rajasthan High Court was disposed of with a direction to the Nursing Council to consider the matter sympathetically by taking into consideration the equivalence of course. Allowing the appeal of the State of Rajasthan, the Court observed thus:

> "**9**. The points involved in the case are two fold : one relating to prescription of minimum educational qualification for admission to the course and the other relating to recognition of the Madhyama Certificate issued by the Hindi Sahitya Sammelan, Allahabad as equivalent to or higher than + 2 or 1st year of TDC for the purpose of admission. Both these points relate to matters in the realm of policy decision to be taken by the State Government or the authority vested with power under any statute. It is not for Courts to determine whether a particular educational qualification possessed by a candidate should or should not be recognized as equivalent to the prescribed qualification in the case. That is not to say that such matters are not justiciable. In an appropriate case the Court can examine whether the policy decision or the administrative order dealing with the matter is based on a fair, rational and reasonable ground; whether the decision has been taken on consideration of relevant aspects of the matter; whether exercise of the power is obtained with *mala fide* intention; whether the decision serves the purpose of giving proper training to the candidates admitted or it is based on irrelevant and irrational considerations or intended to benefit an individual or a group of candidates."

After making a reference to its earlier judgments in Delhi Pradesh Registered Medical Practitioners v. Director of Health, Delhi Admn. Services and others, {(1997) 11 SCC 687} and Dr. Ravinder Nath v. State of H.P. and others, {1993 Supp (2) SCC 639}, the Court in Para 12 observed thus:

> "From the ratio of the decision noted above it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for Courts to decide whether a particular

educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority."

7. In the result, the writ petition fails and is dismissed. There shall however be no order as to costs.

Sd/-
P. C. Naik
Judge